



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3910

Introduced 2/26/2009, by Rep. Sandra M. Pihos - Michael P. McAuliffe, Mark H. Beaubien, Jr., Mike Fortner, Michael G. Connelly, et al.

#### SYNOPSIS AS INTRODUCED:

210 ILCS 80/1.05 new  
720 ILCS 5/26-1

from Ch. 38, par. 26-1

Amends the Hospital Emergency Service Act and the Criminal Code of 1961. Provides that if an emergency room staff member has reasonable cause to believe that (i) an individual known to him or her in the course of performing his or her duties as an emergency room staff member is a victim of domestic violence and (ii) the individual has not reported the domestic violence to a law enforcement agency, the emergency room staff member must immediately report the suspected domestic violence to a law enforcement agency. Provides that an individual or entity participating in good faith in the making of a report is immune from liability. Provides that a person who violates these provisions commits disorderly conduct, and provides criminal penalties for violations. Requires hospitals to report to the Department of Public Health by January 1, 2011 concerning their implementation of these provisions. Effective immediately.

LRB096 10381 DRJ 20551 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Hospital Emergency Service Act is amended by  
5 adding Section 1.05 as follows:

6 (210 ILCS 80/1.05 new)

7 Sec. 1.05. Mandatory reporting of suspected domestic  
8 violence.

9 (a) In this Section:

10 "Department" means the Department of Public Health.

11 "Domestic violence" means abuse by a family or household  
12 member, as "abuse" and "family or household members" are  
13 defined in Section 103 of the Domestic Violence Act of 1986.

14 "Emergency room staff member" means any physician,  
15 resident, intern, nurse, or other person engaged in the  
16 examination, care, or treatment of persons in a hospital  
17 emergency room.

18 (b) If an emergency room staff member has reasonable cause  
19 to believe that (i) an individual known to him or her in the  
20 course of performing his or her duties as an emergency room  
21 staff member is a victim of domestic violence and (ii) the  
22 individual has not reported the domestic violence to a law  
23 enforcement agency, the emergency room staff member must

1 immediately report the suspected domestic violence to a law  
2 enforcement agency or cause such a report to be made. The  
3 emergency room staff member may also notify his or her  
4 supervisor or other person in charge of the emergency room. The  
5 privileged quality of communication between any professional  
6 person required to report and his or her patient does not apply  
7 to situations involving victims of domestic violence for  
8 purposes of this Section and does not constitute grounds for  
9 failure to report as required by this Section.

10 (c) Any person, institution, or agency participating in  
11 good faith in the making of a report, or in the investigation  
12 of such a report, or in the taking of photographs or x-rays, or  
13 in making a disclosure of information concerning reports of  
14 suspected domestic violence in compliance with this Section,  
15 shall have immunity from any civil, criminal, or other  
16 liability that otherwise might result by reason of those  
17 actions. For the purpose of any civil or criminal proceedings,  
18 the good faith of any persons required to report cases of  
19 suspected domestic violence under this Section shall be  
20 presumed.

21 (d) Any person who enters into employment on or after the  
22 effective date of this amendatory Act of the 96th General  
23 Assembly and is mandated by virtue of that employment to report  
24 under this Section must sign a statement on a form prescribed  
25 by the Department, to the effect that the employee has  
26 knowledge and understanding of the reporting requirements of

1 this Section. The person must sign the statement before  
2 commencing employment. The employer must retain the signed  
3 statement. The employer shall bear the cost of printing,  
4 distributing, and filing the statement.

5 (e) A person who knowingly transmits a false report to a  
6 law enforcement agency under this Section commits the offense  
7 of disorderly conduct under subdivision (a)(7.5) of Section  
8 26-1 of the Criminal Code of 1961. A person who violates this  
9 provision a second or subsequent time is guilty of a Class 3  
10 felony.

11 A person who knowingly and willfully violates any provision  
12 of this Section, other than a second or subsequent violation of  
13 transmitting a false report as described in the preceding  
14 paragraph, is guilty of a Class A misdemeanor for a first  
15 violation and a Class 4 felony for a second or subsequent  
16 violation; except that if the person acted as part of a plan or  
17 scheme having as its object the prevention of discovery of a  
18 victim of domestic violence by lawful authorities for the  
19 purpose of protecting or insulating any person or entity from  
20 arrest or prosecution, the person is guilty of a Class 4 felony  
21 for a first offense and a Class 3 felony for a second or  
22 subsequent offense (regardless of whether the second or  
23 subsequent offense involves any of the same facts or persons as  
24 the first or other prior offense).

25 (f) The Department shall provide copies of this Section,  
26 upon request, to every hospital in this State that operates an

1 emergency room.

2 (g) No later than January 1, 2011, every hospital that  
3 operates an emergency room shall submit a report to the  
4 Department that describes the hospital's implementation of  
5 this Section. The Department shall prescribe the form and  
6 manner of submitting the report.

7 Section 10. The Criminal Code of 1961 is amended by  
8 changing Section 26-1 as follows:

9 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

10 Sec. 26-1. Elements of the Offense.

11 (a) A person commits disorderly conduct when he knowingly:

12 (1) Does any act in such unreasonable manner as to  
13 alarm or disturb another and to provoke a breach of the  
14 peace; or

15 (2) Transmits or causes to be transmitted in any manner  
16 to the fire department of any city, town, village or fire  
17 protection district a false alarm of fire, knowing at the  
18 time of such transmission that there is no reasonable  
19 ground for believing that such fire exists; or

20 (3) Transmits or causes to be transmitted in any manner  
21 to another a false alarm to the effect that a bomb or other  
22 explosive of any nature or a container holding poison gas,  
23 a deadly biological or chemical contaminant, or  
24 radioactive substance is concealed in such place that its

1 explosion or release would endanger human life, knowing at  
2 the time of such transmission that there is no reasonable  
3 ground for believing that such bomb, explosive or a  
4 container holding poison gas, a deadly biological or  
5 chemical contaminant, or radioactive substance is  
6 concealed in such place; or

7 (4) Transmits or causes to be transmitted in any manner  
8 to any peace officer, public officer or public employee a  
9 report to the effect that an offense will be committed, is  
10 being committed, or has been committed, knowing at the time  
11 of such transmission that there is no reasonable ground for  
12 believing that such an offense will be committed, is being  
13 committed, or has been committed; or

14 (5) Enters upon the property of another and for a lewd  
15 or unlawful purpose deliberately looks into a dwelling on  
16 the property through any window or other opening in it; or

17 (6) While acting as a collection agency as defined in  
18 the "Collection Agency Act" or as an employee of such  
19 collection agency, and while attempting to collect an  
20 alleged debt, makes a telephone call to the alleged debtor  
21 which is designed to harass, annoy or intimidate the  
22 alleged debtor; or

23 (7) Transmits or causes to be transmitted a false  
24 report to the Department of Children and Family Services  
25 under Section 4 of the "Abused and Neglected Child  
26 Reporting Act"; or

1           (7.5) Transmits or causes to be transmitted a false  
2           report to a law enforcement agency under Section 1.05 of  
3           the Hospital Emergency Service Act; or

4           (8) Transmits or causes to be transmitted a false  
5           report to the Department of Public Health under the Nursing  
6           Home Care Act; or

7           (9) Transmits or causes to be transmitted in any manner  
8           to the police department or fire department of any  
9           municipality or fire protection district, or any privately  
10          owned and operated ambulance service, a false request for  
11          an ambulance, emergency medical technician-ambulance or  
12          emergency medical technician-paramedic knowing at the time  
13          there is no reasonable ground for believing that such  
14          assistance is required; or

15          (10) Transmits or causes to be transmitted a false  
16          report under Article II of "An Act in relation to victims  
17          of violence and abuse", approved September 16, 1984, as  
18          amended; or

19          (11) Transmits or causes to be transmitted a false  
20          report to any public safety agency without the reasonable  
21          grounds necessary to believe that transmitting such a  
22          report is necessary for the safety and welfare of the  
23          public; or

24          (12) Calls the number "911" for the purpose of making  
25          or transmitting a false alarm or complaint and reporting  
26          information when, at the time the call or transmission is

1           made, the person knows there is no reasonable ground for  
2           making the call or transmission and further knows that the  
3           call or transmission could result in the emergency response  
4           of any public safety agency.

5           (b) Sentence. A violation of subsection (a)(1) of this  
6           Section is a Class C misdemeanor. A violation of subsection  
7           (a)(5), (a)(11), or (a)(12) of this Section is a Class A  
8           misdemeanor. A violation of subsection (a)(8) or (a)(10) of  
9           this Section is a Class B misdemeanor. A violation of  
10          subsection (a)(2), (a)(4), (a)(7), or (a)(9) of this Section is  
11          a Class 4 felony. A violation of subsection (a)(3) of this  
12          Section is a Class 3 felony, for which a fine of not less than  
13          \$3,000 and no more than \$10,000 shall be assessed in addition  
14          to any other penalty imposed.

15          A violation of subsection (a)(6) of this Section is a  
16          Business Offense and shall be punished by a fine not to exceed  
17          \$3,000. A second or subsequent violation of subsection (a)(7),  
18          (a)(11), or (a)(12) of this Section is a Class 4 felony. A  
19          third or subsequent violation of subsection (a)(5) of this  
20          Section is a Class 4 felony.

21          (c) In addition to any other sentence that may be imposed,  
22          a court shall order any person convicted of disorderly conduct  
23          to perform community service for not less than 30 and not more  
24          than 120 hours, if community service is available in the  
25          jurisdiction and is funded and approved by the county board of  
26          the county where the offense was committed. In addition,

1 whenever any person is placed on supervision for an alleged  
2 offense under this Section, the supervision shall be  
3 conditioned upon the performance of the community service.

4 This subsection does not apply when the court imposes a  
5 sentence of incarceration.

6 (Source: P.A. 92-16, eff. 6-28-01; 92-502, eff. 12-19-01;  
7 93-431, eff. 8-5-03.)

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.